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The Telecommunications Association

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January 15, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

Ex parte

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CS Docket No. 97-151

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's Rules, this is to notify you that the following individuals, representing the organizations noted below, met today with the staff of Commissioner Ness to discuss the development of new pole attachment regulations as proposed in CS Docket No. 97-151:

<u>Name</u>	<u>Representing</u>
Jeffrey Sheldon Sean Stokes	UTC, The Telecommunications Association
Laurence Brown	Edison Electric Institute
Michael Powl	Pennsylvania Power & Light Co.

A copy of the written presentation used during this meeting, which also summarizes the points addressed, is attached to this notice. Two copies of this notice are submitted for filing.

If you have any questions concerning this matter, please let me know.

Very truly yours,

Jeffrey L. Sheldon
General Counsel

Attachments

cc: Anita Wallgren

No. of Copies rec'd 021
List A B C D E

**Electric Utility Concerns
In CS Docket No. 97-151
(Post-2001 Pole Attachment Rates)**

I. Rely On Market Forces To Greatest Extent Possible

- Exhibit a preference for negotiations.
- Non-discriminatory access does not mean that all agreements have to be identical.
- A “forward looking” cost methodology would most effectively approximate the real costs of access.

II. Allocation of non-usable space among “attaching entities”

- “Pole attachment” is defined in §224(a)(4) as attachments by a cable television system or a provider of telecommunications services.
- Under this definition, the following are not “pole attachments”:
 - Electric utility facilities used to provide electric service, including facilities used for internal communications.
 - Facilities of local governmental agencies that are not used for cable television or telecommunications service.
 - Facilities of an ILEC. (Section 224(a)(5) explicitly states that ILECs are not considered telecommunications carriers for pole attachment purposes).

III. Exemption from Post-2001 Rate for Systems That “Solely Provide Cable Service”

- Cable company claiming the exemption should certify to the FCC and the utility that it is solely engaged in providing cable services on the facilities covered by the pole attachment agreement.
- The provision of Internet service, cable modem service, or other information service is not cable service.
- Overlapping of new facilities to provide non-cable services should also trigger the post-2001 rate.
- If any facilities covered by the pole attachment agreement are used for other than cable services, none of the facilities should be entitled to the exemption.

IV. Overlashing

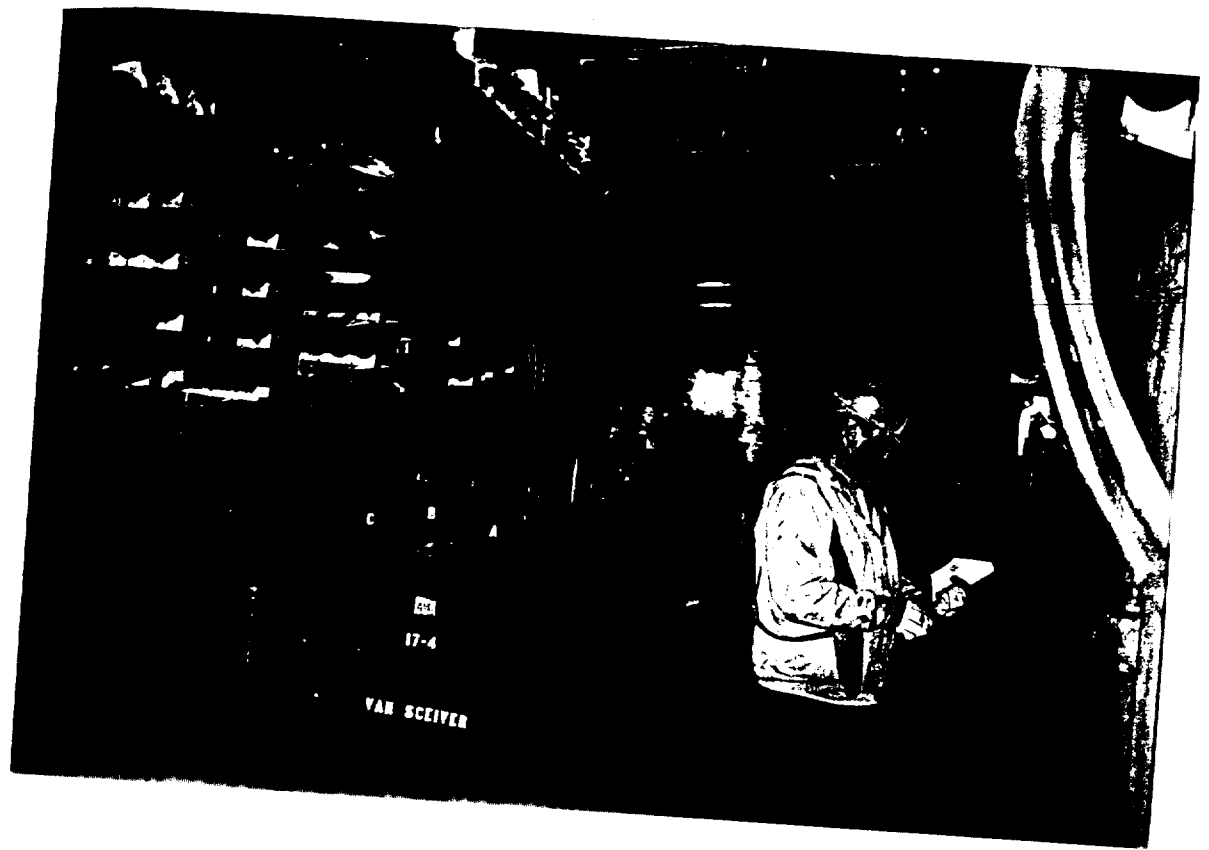
- Engineering and safety standards, as well as basic property law, require that each overlashing entity obtain a separate agreement or prior approval from the pole owner.
- Overlashing by a third-party requires a separate allocation of non-usable space.

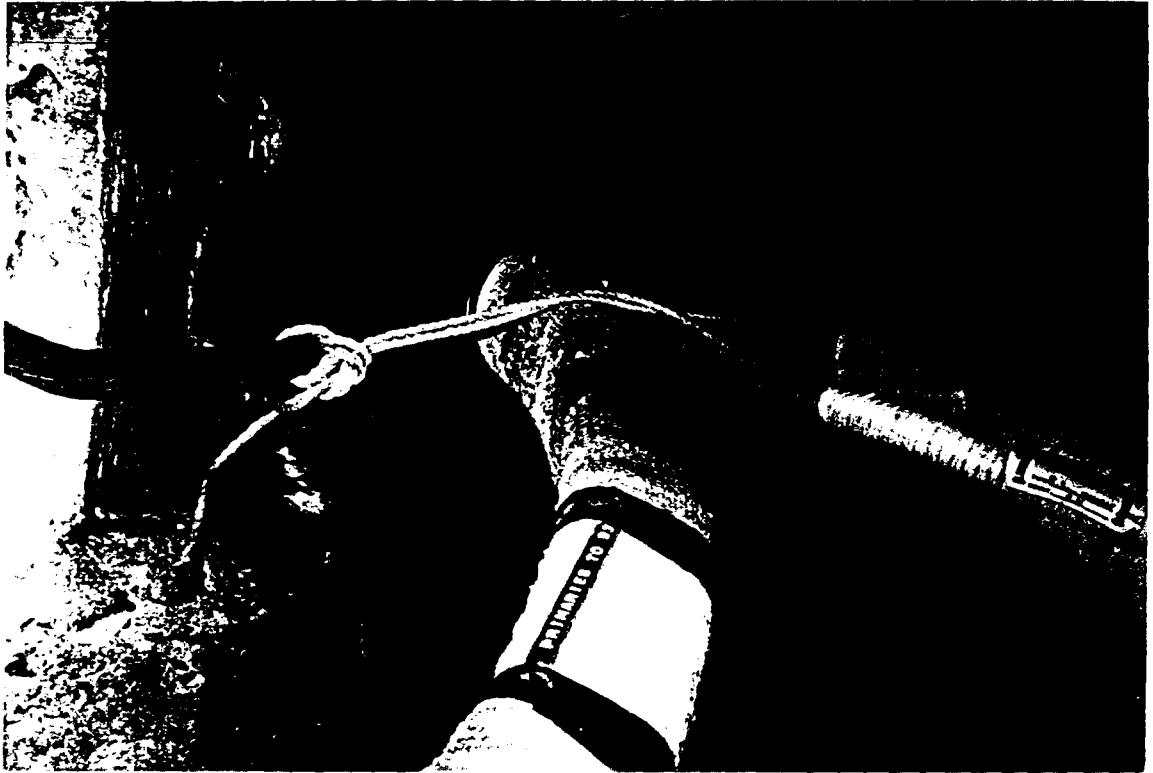
V. Conduit

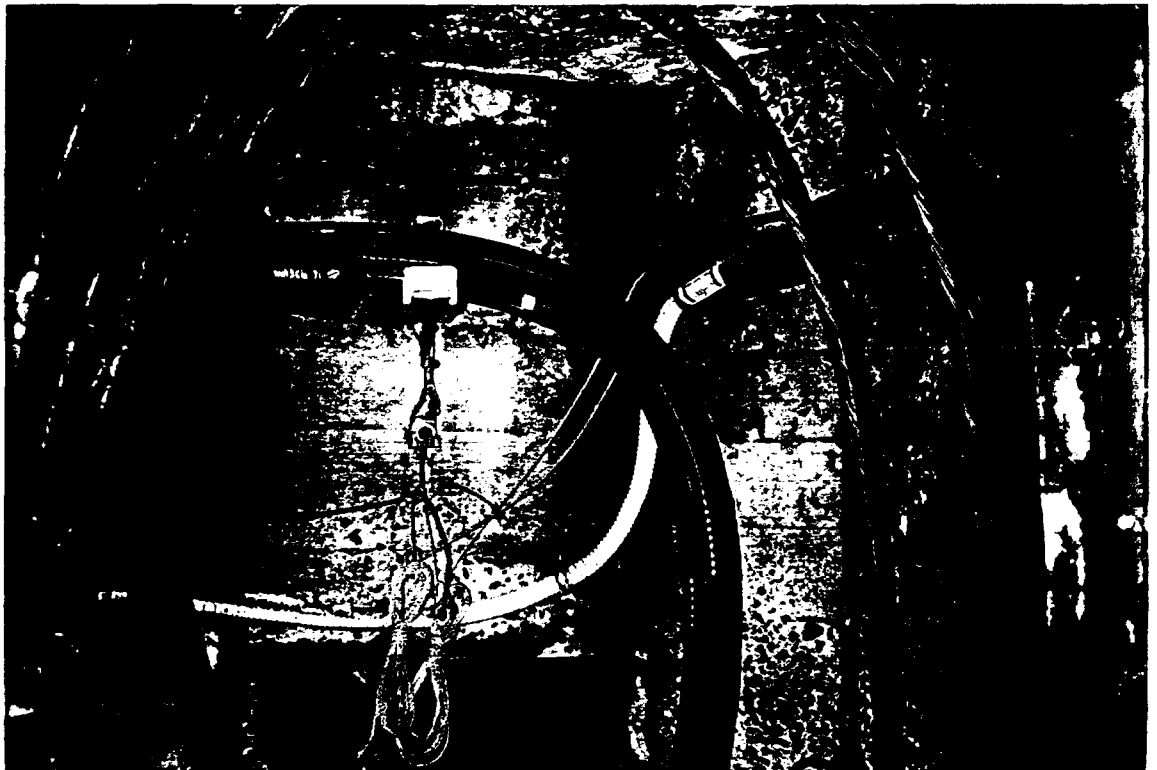
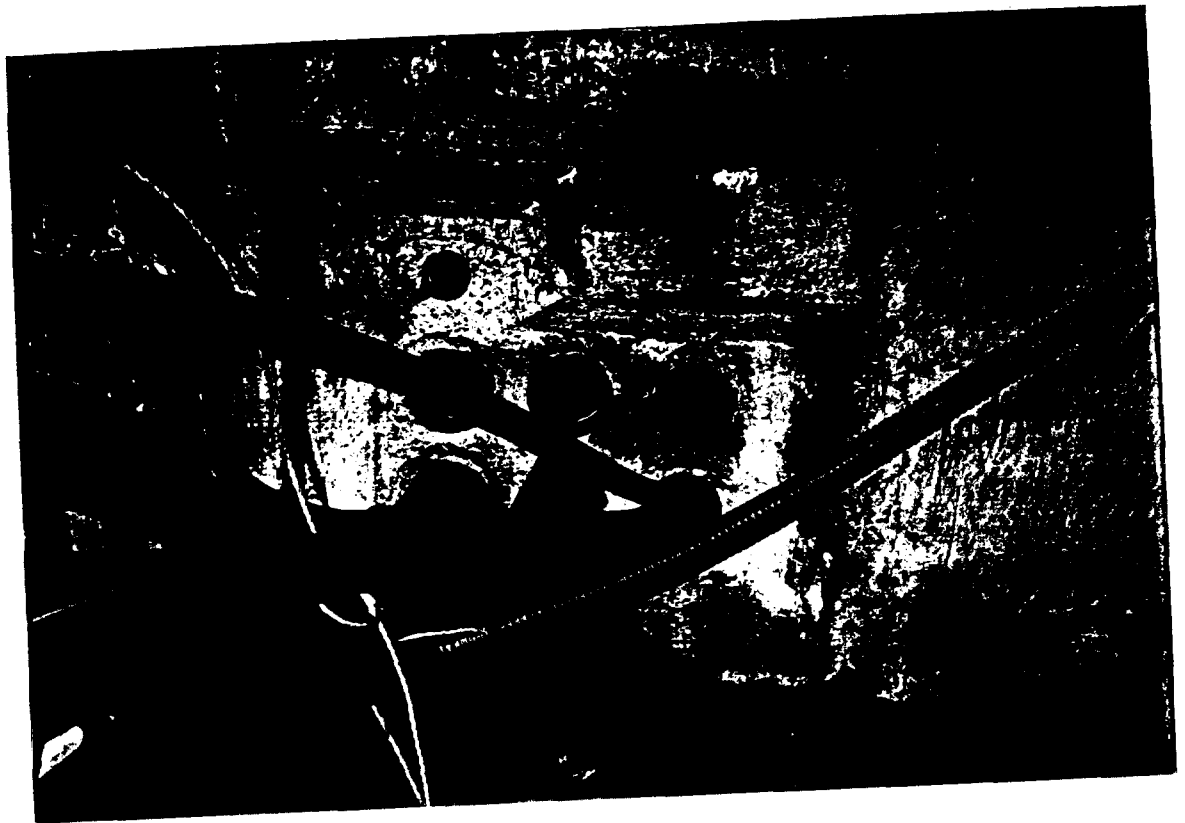
- Half-duct methodology is inappropriate for electrical conduit because the presence of a telephone cable within a duct effectively makes the entire duct unsuitable for electric lines.
- "Usable" vs. "non-usable" space
 - Statute acknowledges that non-usable components are of equal benefit to all attaching entities.
 - Just as non-usable space on a pole includes the buried portion of a pole, the non-usable space in a conduit system encompasses all elements of the system that are of common benefit to all "attaching" entities.
 - Therefore, "non-usable" space should include all cement or encasement materials, vaults, handholes and other related equipment that allow for deployment of, access to, and maintenance of cable facilities.

VI. Transmission towers and wireless attachments

- These issues are subject to reconsideration in CC Docket 96-98.
- Safety, reliability and cost issues involving transmission structures are not encompassed in the current proceeding.
- There is a competitive market for wireless communications sites:
 - Wireless carriers do not require access to utility facilities given the large number of siting options for such carriers (see attached excerpts from wireless publications illustrating the plethora of entities in the tower siting business).
 - Regulated rates for wireless attachments to utility property will act as disincentive for other entities to make wireless sites available.
- Even local exchange carriers with cellular affiliates are not required to provide co-location or access to their communications towers.









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